
By: **Delegates Menes, Brown, Pendergrass, and Vallario**
Introduced and read first time: January 29, 2003
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Controlled Dangerous Substances - Repeal of Minimum Penalties**
3 **for Nonviolent Offenses**

4 FOR the purpose of repealing certain provisions of law relating to mandatory
5 minimum penalties for persons convicted of certain felony controlled dangerous
6 substances crimes who have certain prior felony convictions for controlled
7 dangerous substances crimes; and generally relating to controlled dangerous
8 substances crimes.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Law
11 Section 5-607 through 5-609, inclusive
12 Annotated Code of Maryland
13 (2002 Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Criminal Law**

17 5-607.

18 [(a)] Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who
19 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and
20 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
21 \$15,000 or both.

22 [(b) (1)] A person who has been convicted previously under subsection (a) of
23 this section shall be sentenced to imprisonment for not less than 2 years.

24 (2) The court may not suspend the mandatory minimum sentence to less
25 than 2 years.

26 (3) Except as provided in § 4-305 of the Correctional Services Article, the
27 person is not eligible for parole during the mandatory minimum sentence.]

1 5-608.

2 [(a) Except as otherwise provided in this section, a] A person who violates a
3 provision of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or
4 Schedule II narcotic drug is guilty of a felony and on conviction is subject to
5 imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

6 [(b) (1) A person who is convicted under subsection (a) of this section or of
7 conspiracy to commit a crime included in subsection (a) of this section shall be
8 sentenced to imprisonment for not less than 10 years and is subject to a fine not
9 exceeding \$100,000 if the person previously has been convicted once:

10 (i) under subsection (a) of this section;

11 (ii) of conspiracy to commit a crime included in subsection (a) of this
12 section; or

13 (iii) of a crime under the laws of another state or the United States
14 that would be a crime included in subsection (a) of this section if committed in this
15 State.

16 (2) The court may not suspend the mandatory minimum sentence to less
17 than 10 years.

18 (3) Except as provided in § 4-305 of the Correctional Services Article, the
19 person is not eligible for parole during the mandatory minimum sentence.

20 (4) A person convicted under subsection (a) of this section is not
21 prohibited from participating in a drug treatment program under § 8-507 of the
22 Health - General Article because of the length of the sentence.

23 (c) (1) A person who is convicted under subsection (a) of this section or of
24 conspiracy to commit a crime included in subsection (a) of this section shall be
25 sentenced to imprisonment for not less than 25 years and is subject to a fine not
26 exceeding \$100,000 if the person previously:

27 (i) has served at least one term of confinement of at least 180 days
28 in a correctional institution as a result of a conviction under subsection (a) of this
29 section or § 5-614 of this subtitle; and

30 (ii) has been convicted twice, if the convictions arise from separate
31 occasions:

32 1. under subsection (a) of this section;

33 2. of conspiracy to commit a crime included in subsection (a)
34 of this section;

- 1 (4) 1-piperidinocyclohexanecarbonitrile;
- 2 (5) N-ethyl-1-phenylcyclohexylamine;
- 3 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 4 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 5 (8) lysergic acid diethylamide; or
- 6 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
7 (MDMA).

8 [(b) (1) A person who is convicted under subsection (a) of this section or of
9 conspiracy to commit a crime included in subsection (a) of this section shall be
10 sentenced to imprisonment for not less than 10 years and is subject to a fine not
11 exceeding \$100,000 if the person previously has been convicted once:

- 12 (i) under subsection (a) of this section;
- 13 (ii) of conspiracy to commit a crime included in subsection (a) of this
14 section; or
- 15 (iii) of a crime under the laws of another state or the United States
16 that would be a crime included in subsection (a) of this section if committed in this
17 State; or
- 18 (iv) of any combination of these crimes.

19 (2) The court may not suspend the mandatory minimum sentence to less
20 than 10 years.

21 (3) Except as provided in § 4-305 of the Correctional Services Article, the
22 person is not eligible for parole during the mandatory minimum sentence.

23 (c) (1) A person who is convicted under subsection (a) of this section or of
24 conspiracy to commit a crime included in subsection (a) of this section shall be
25 sentenced to imprisonment for not less than 25 years and is subject to a fine not
26 exceeding \$100,000 if the person previously:

- 27 (i) has served at least one term of confinement of at least 180 days
28 in a correctional institution as a result of a conviction under subsection (a) of this
29 section or § 5-614 of this subtitle; and
- 30 (ii) if the convictions do not arise from a single incident, has been
31 convicted twice:

- 32 1. under subsection (a) of this section;
- 33 2. of conspiracy to commit a crime included in subsection (a)
34 of this section;

